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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/443,793      | 11/18/1999  | DAVID E. ALBRECHT    | 505-02              | 7726             |

7590 09/11/2002

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EXAMINER

PICKARD, ALISON K

| ART UNIT | PAPER NUMBER |
|----------|--------------|
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3676

DATE MAILED: 09/11/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/443,793

Applicant(s)

ALBRECHT, DAVID E.

Examiner

Alison K. Pickard

Art Unit

3676

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-4 and 23-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4 and 23-26 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-4 and 23-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Smith '809 in view of Stone '871.

Smith discloses a one-piece plate 31 having an interior opening and a boundary. A one-piece seal 36 is disposed within the boundary. A support ring 22 is disposed within the seal. The seal is a flexible o-ring. The ring 22 is metal and is non-threaded. The ring has an outer boundary with two chamfers 24 and an outer diameter greater than the o-ring inner diameter (col. 2, lines 57-58).

Smith does not disclose that the support ring has at least one orifice providing fluid connection between the opening and the seal. Stone teaches providing a fluid connection between an opening and a seal. An orifice 18 provides fluid connection from inside the pipe 11 to the seal 19. The orifice allows the seal to receive fluid pressure from inside the joint and force the seal "in a sealing direction while preventing leakage of such fluid around or past the element" (col. 1, lines 45-52). Therefore, it would have been obvious for one of ordinary skill in the art at the time the invention was made to modify the support ring of Smith with the orifice as taught by Stone so that fluid pressure within the opening is communicated to the seal to force it radially outward in a sealing direction to prevent fluid from leaking around or past it.

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Regarding claims 4 and 26, Smith does not disclose the angles of the chamfers are 45 degrees. This is considered a design choice. It is not considered inventive to discover the workable or optimum ranges by routine experimentation. See *In re Aller*. Therefore, it would have been obvious for one of ordinary skill in the art at the time the invention was made to modify the angle of the chamfers to 45 degrees as a matter of choice in design.

***Response to Arguments***

3. Applicant's arguments filed 7-01-02 have been fully considered but they are not persuasive.

As discussed above, Smith in view of Stone discloses a non-threaded fluid seal between two port faces. In response to applicant's argument that Stone is nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, Stone deals with a pressure responsive pipe joint seal. Both Applicant and Stone are concerned with providing a seal at a joint in a hydraulic component. Further, Applicant has argued that Stone forms an orifice in a threaded member while Applicant's is formed in a non-threaded member. In response, the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981). In this case, Stone's teaching of providing a fluid

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connection between an opening in a hydraulic component (pipe) and a seal is what is being applied to Smith. Smith already discloses a planar, non-threaded fluid seal comprising a plate, support ring, and seal. Stone provides motivation to use the orifice to allow the seal to receive fluid pressure from inside the joint (pipe) to force the seal element “in a sealing direction while preventing leakage of such fluid around or past the element” (col. 1, lines 45-52). In both Smith and Stone, the “sealing direction” is radially outward such that fluid can’t leak around or past the seal. Finally, the examiner has cited other prior art (such as Haggett, Hinderliter, Stiennon, Johnson, and Thompson), which teaches using a fluid connection from inside a hydraulic apparatus to a seal for improving the sealing effect of the seal. The references show this teaching in a variety of sealing configurations (i.e., threaded, planar, etc.).

### ***Conclusion***

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

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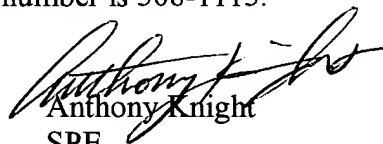
however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alison K. Pickard whose telephone number is 703-305-0882.

The examiner can normally be reached on M-F (9-6:30), with alternate Friday's off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony Knight can be reached on 703-308-3179. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9326 for regular communications and 703-872-9327 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 308-1113.

  
Anthony Knight  
SPE  
Art Unit 3676

AP  
September 7, 2002